

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARRICK L. FULLER,)
)
 Petitioner,)
)
 v.) 1:21-cv-931
)
SAMUEL S. PAGE, Rockingham)
County Sheriff,)
)
 Respondent.)

ORDER

This matter is before this court for review of the Order and Recommendation ("Recommendation") filed on December 9, 2021, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 2.) In the Recommendation, the Magistrate Judge recommends that this action be construed as a habeas petition under 28 U.S.C. § 2254 and dismissed sua sponte without prejudice to Petitioner exhausting his state court remedies and then filing a new petition which corrects certain defects of the current Petition, accompanied by either the five-dollar filing fee or the current application to proceed in forma pauperis. No objections were filed within the time limits prescribed by Section 636.

Therefore, the court need not make a de novo review and the Magistrate Judge's Recommendation is hereby adopted.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 2), is **ADOPTED**. **IT IS FURTHER ORDERED** that this action is construed as a habeas petition under 28 U.S.C. § 2254 and **DISMISSED sua sponte** without prejudice to Petitioner exhausting his state court remedies and then filing a new petition which corrects certain defects of the current Petition, accompanied by either the five-dollar filing fee or the current application to proceed in forma pauperis.

A Judgment dismissing this action will be filed contemporaneously with the Order.

This the 22nd day of March, 2023.

William L. Osten, Jr.
United States District Judge